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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CARLOS HERNANDEZ and)
ANGELA HERNANDEZ)
)
Plaintiffs,)
) No.
vs.)
)
)
PRIMARY FINANCIAL SERVICES,)
L.L.C., a foreign corporation,)
)
Defendant.)

JURY DEMANDED

LAW OFFICES
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COMPLAINT

JURISDICTION

1. The jurisdiction of this Court attains pursuant to the
FDCPA, 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331, 28 U.S.C. § 1332,
and the doctrine of supplemental jurisdiction. Venue lies in the
Southern Division of the Judicial District of Nevada as Plaintiffs'
claims arose from acts of the Defendant(s) perpetrated therein.

PRELIMINARY STATEMENT

2. This action is instituted in accordance with and to
remedy Defendant's violations of the Federal Fair Debt Collection
Practices Act, 15 U.S.C § 1692 et seq. (hereinafter "FDCPA"), and
of related state law obligations brought as supplemental claims
hereto.

4. As a result of these and other violations of law, Plaintiffs seek hereby to recover actual and statutory damages together with reasonable attorney's fees and costs.

5. Plaintiffs, Carlos Hernandez and Angela Hernandez, are natural persons who reside in Pahrump, Nevada, and are "consumers" as defined by 15 U.S.C. Section 1692a(3) and allegedly owe a "debt" as defined by 15 U.S.C. Section 1692a(5).

FACTUAL ALLEGATIONS

8. Angela Hernandez is not on the account underlying this action.

2

1 10. The account was incurred prior to Angela's marriage to
2 Carlos.

3 11. On approximately December 19, 2007, Defendant's
4 collector, Marcos, called Plaintiff.

5 12. Marcos was at first genial and spoke to Plaintiff in his
6 native Spanish.

7 13. Marcos demanded additional payment on Plaintiff's
8 account.

9 14. Plaintiff ended the call advising he'd first have to
10 speak with his wife, Angela.

11 15. On approximately December 20, 2007, Defendant left serial
12 messages on Angela's phone.

13 16. Marcos then called Plaintiff and transferred him to Tom.

14 17. Tom spoke down to Plaintiff advising he would continue to
15 call Angela absent Plaintiff making renewed payments.

16 18. Plaintiff instructed Tom not to call Angela, that he was
17 the one responsible.

18 19. Tom neatly responded that he would call Angela as much as
19 he'd like as Plaintiff was "not man enough to handle his bills!"

20 20. Tom's abusive comments were made in violation of FDCPA §§
21 1692c, 1692d and 1692e.

22 21. A frightened Plaintiff called Tom back.

23 22. Tom told Plaintiff he had "pissed him off" and now had
24 his entire staff working on Plaintiff's account.

25 23. Tom then demanded \$4,200.00 immediately and indicated he
26 would otherwise immediately take Plaintiff's assets.

27 24. Tom then said that it was *Christmas* and he would "allow"
28 Plaintiff to pay \$1,400.00.

1 25. Plaintiff had already paid \$1,800.00 towards this account
2 and had received no credit for it.

3 26. The serial calls to Angela's phone, above Plaintiff's
4 repeated protests, were made in violation of FDCPA §§ 1692c(b),
5 1692d and 1692d(5).

6 27. Defendant's continued phone contacts to Plaintiffs, at
7 times and at a place known to be inconvenient to Plaintiffs, were
8 made in violation of FDCPA § 1692c(a)(1). Fox v. Citicorp Credit
9 Services, Inc., 15 F.3d 1507, 1516, fn. 10 (9th Cir. 1994), Austin
10 v. Great Lakes Collection Bureau, Inc., 834 F. Supp. 557, 559 (D.
11 Conn. 1993).

12 28. The Defendant's immediate and repeated recalls to
13 Plaintiffs constituted harassment in violation of FDCPA §§ 1692d
14 and 1692d(5). Fox v. Citicorp Credit Services, Inc., 15 F.3d 1507,
15 1516 (9th Cir. 1994), Bingham v. Collection Bureau, Inc., 505 F.
16 Supp. 864, 873 (1981), Kuhn v. Account Control Technology, Inc.,
17 865 F. Supp. 1443, 1452-53 (D. Nev. 1994).

18 29. The foregoing acts and omissions of Defendant were
19 undertaken by it willfully, maliciously, and intentionally,
20 knowingly, and/or in gross or reckless disregard of the rights of
21 Plaintiffs.

22 30. Indeed, the foregoing acts and omissions of Defendant
23 were undertaken by it indiscriminately and persistently, as part of
24 its regular and routine debt collection efforts, and without regard
25 to or consideration of the identity or rights of Plaintiffs.

26 31. As a proximate result of the foregoing acts and omissions
27 of Defendant, Plaintiffs have suffered actual damages and injury,
28 including, but not limited to, stress, humiliation, mental anguish

1 and suffering, and emotional distress, for which Plaintiffs should
2 be compensated in an amount to be proven at trial.

3 32. As a result of the foregoing acts and omissions of
4 Defendant, and in order to punish Defendant for its outrageous and
5 malicious conduct, as well as to deter it from committing similar
6 acts in the future as part of its debt collection efforts,
7 Plaintiffs are entitled to recover punitive damages in an amount to
8 be proven at trial.

9
10 CAUSES OF ACTION

11 COUNT I

12 33. The foregoing acts and omissions of Defendant constitute
13 violations of the FDCPA, including, but not limited to, Sections
14 1692c, 1692d, 1692e, 1692f, and 1692g.

15 34. Plaintiffs are entitled to recover statutory damages,
16 actual damages, reasonable attorney's fees, and costs.

17
18 COUNT II

19 35. The foregoing acts and omissions constitute unreasonable
20 debt collection practices in violation of the doctrine of Invasion
21 of Privacy. *Kuhn v. Account Control Technology, Inc.*, 865 F. Supp.
22 1443, 1448-49 (D. Nev. 1994); *Pittman v. J. J. Mac Intyre Co. of*
23 *Nevada, Inc.*, 969 F. Supp. 609, 613-14 (D. of Nev. 1997).

24 36. Plaintiffs are entitled to recover actual damages as well
25 as punitive damages in an amount to be proven at trial.

JURY DEMANDED

1 Plaintiffs hereby demand trial by a jury on all issues so
2 triable.

3 WHEREFORE, Plaintiffs pray that this Honorable Court grant the
4 following relief:

- 5 1. Award actual damages.
6 2. Award punitive damages.
7 3. Award statutory damages of \$1,000 pursuant to 15 U.S.C.
8 § 1692k.
9 4. Award reasonable attorney fees.
10 5. Award costs.
11 6. Grant such other and further relief as it deems just and
12 proper.

13 Respectfully submitted,

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